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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,116

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Toshihiko Kaku

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EXAMINER

CHU, RANDOLPH I

ART UNIT

PAPER NUMBER

2624

NOTIFICATION DATE

DELIVERY MODE

08/24/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,116	<b>Applicant(s)</b> KAKU, TOSHIHIKO	
	<b>Examiner</b> RANDOLPH CHU	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/9/2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-8,12-16 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-8,12-16 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Paragraph [0004] of the specification described about layer of the eyeball but no where in the specification disclose "the predetermined criteria is also determined in such way that a position of a red-eye portion with a layer area is given a higher priority".

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,6,7,8, 14-16 and 22 are rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Enomoto (US Patent 7,324,246).

With respect to claim 1, White et al. teach, an image acquisition section that acquires image data representing an image (Fig 1, ref no. 102);

a correction section that detects a particular eye-related defect in the image represented by the image data acquired by the image acquisition section and corrects the detected defect (Fig 1; ref no. 108, 110 and 113); and

an image display section that displays the number of positions at which the defect has been detected by the correction section, together with an image including a position (Fig 2; ref no. 114, Fig. 5, para. [0058] and [0068]).

White et al. does not teach expressly that the correction section detects the defect in the image and prioritizes the positions at which the defect has been detected based on a predetermined criteria and the predetermined criteria determined in such a way that a position closer to a center of the image is given a higher priority, and wherein the image display section, when displaying the image, displays in preference a position to which a higher priority has been given by the correction section.

Enomoto teaches the correction section detects the defect in the image and prioritizes the positions at which the defect has been detected based on a

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predetermined criteria and the predetermined criteria determined in such a way that a position closer to a center of the image is given a higher priority (more preferable eye region), and wherein the image display section, when displaying the image, displays in preference (in the sequence of high certainty) a position to which a higher priority has been given by the correction section (col. 16 lines 3-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to give higher priority in center of the image in the apparatus of White et al.

The suggestion/motivation for doing so would have been that center of the picture has a significantly high probabilities of including the major object among the regions.

Therefore, it would have been obvious to combine Enomoto with White et al. to obtain the invention as specified in claim 1.

With respect to claim 6, White et al. teaches a confirmation section that receives an operation for confirming the positions in the image displayed by the image display section, at which the defect has been detected by the correction section (Fig. 6 Accept button) , wherein the image display section, when displaying the number of the positions, displays the number of the positions minus the number of positions confirmed by the confirmation section (number of eye color defect) (para[066]-[069]).

With respect to claim 7, White et al. teaches that correction section detects red-eye portions in the image and corrects the detected red-eye portions (Fig 1; ref no. 108, 110 and 113).

With respect to claim 8, please refer to rejection for claim 1.

With respect to claim 14, please refer to rejection for claim 7.

With respect to claim 15, please refer to rejection for claim 1.

With respect to claim 16, please refer to rejection for claim 1.

With respect to claim 22, Maruoka teaches the predetermined criteria includes an area of the eye-related defect (col. 22 lines 10-54).

3. Claims 4 are rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Enomoto (US Patent 7,324,246) and in further view of Sato et al. (US Patent 6,977,676).

White et al. and Enomoto teaches all the limitations of claim 1 as applied above from which claim 4 respectively depend.

White et al. and Enomoto does not teach expressly that zooms at least one of the positions and displaying the image.

Sato et al. teaches zooms at least one of the positions and displaying the image, and displays a normal image (Fig 2 and 9; col. 2 line 54 – col. 2 line 21).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to zoom the position of the defect and display it in the apparatus of White et al. and Enomoto

The suggestion/motivation for doing so would have been that user can easily identify the defect in detail with zoomed image.

Therefore, it would have been obvious to combine Sato et al. with White et al. and Enomoto to obtain the invention as specified in claims 4.

4. Claim 12 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Enomoto (US Patent 7,324,246) and in further view of Fushiki et al. (US Patent 7,065,249).

White et al. and Enomoto teaches all the limitations of claim 8 as applied above from which claim 12 respectively depend.

White et al. and Enomoto does not teach expressly that a correction cancellation section that restores the defect corrected by the correction section, in the corrected image displayed by the image display section, to the original condition held before the defect is corrected by the correction section.

Fushiki et al. teaches a correction cancellation section that restores the defect corrected by the correction section, in the corrected image displayed by the image display section, to the original condition held before the defect is corrected by the correction section (col. 10 lines 36-52).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to cancel the defect correction in the apparatus of White et al. and Enomoto.

The suggestion/motivation for doing so would have been that it will allow user to reverse changes to the image.

Therefore, it would have been obvious to combine Fushiki et al. with White et al. and Enomoto to obtain the invention as specified in claim 12.

5. Claim 13 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Enomoto (US Patent 7,324,246) and in further view of Murray et al. (US 2002/0109854).

White et al. and Enomoto teaches all the limitations of claim 8 as applied above from which claim 13 respectively depend.

White et al. and Enomoto does not teach expressly that image display section, when displaying the corrected image, emphasizes the defect corrected by the correction section.

Murray et al. teaches that image display section, when displaying the corrected image, emphasizes the defect corrected by the correction section (para. [0035]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to emphasizes the defect corrected by the correction section in the apparatus of White et al.



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The suggestion/motivation for doing so would have been that image improvement can be highlighted so to be easily detectable by an operator.

Therefore, it would have been obvious to combine Murray et al. with White et al. and Enomoto to obtain the invention as specified in claim 13.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDOLPH CHU whose telephone number is (571)270-1145. The examiner can normally be reached on Monday to Thursday from 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner can be reached on 571-272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RIC/

/Brian P. Werner/

Supervisory Patent Examiner, Art Unit 2624